

MARY E. CUMMINGS

IBLA 79-470

Decided April 10, 1980

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer, NM 36927.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing

An oil and gas lease offer is properly rejected where the offeror's check to cover the filing fee is dishonored by the bank because of insufficient funds in the account on which the check is drawn.

2. Administrative Authority: Generally

Reliance upon erroneous information given by BLM employees cannot confer upon an oil and gas lease applicant any rights not authorized by law.

APPEARANCES: Mary E. Cummings, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Mary E. Cummings has appealed from the decision of the New Mexico State Office, Bureau of Land Management (BLM), dated May 31, 1979, rejecting noncompetitive oil and gas lease offer, NM 36927, because the check covering her filing fee was returned by the bank because of insufficient funds. The decision stated that "[i]ssuance of another check would not cure [sic] the issuance of the lease since this office has no authority [to accept late payment]."

Appellant was the first drawee for parcel number NM-702 in the simultaneous drawing held May 16, 1979. In her statement of reasons, appellant states that she was notified by her bank by mail on May 19, 1979, that her check for \$150 covering 15 filings had been returned for insufficient funds. She called BLM on May 21, 1979, and was told that she could send another check which she did. She was thereafter notified that her offer was rejected.

[1, 2] A drawing entry card for a simultaneous oil and gas lease offer must be accompanied by a remittance covering the filing fee of \$10. 43 CFR 3112.2-1(a)(1). The Board has consistently held that a check which a bank has refused to honor is not a tender or payment of the required fee unless the refusal to honor was the result of bank error. Jose V. Lim, 44 IBLA 96 (1979); Charles P. Ricci, 33 IBLA 288 (1978); Duncan Miller, 16 IBLA 379 (1974). No bank error is shown to be present in this case. When appellant's check was dishonored, her drawing entry card was not accompanied by a remittance to cover the filing fee. Later submission of another \$150 check does not cure the defect since the time of filing had passed. Reliance upon erroneous information given by a BLM employee can not confer on an applicant any right not authorized by law. 43 CFR 1810.3(c); Elizabeth Pagedas (On Reconsideration), 40 IBLA 21 (1979).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski
Administrative Judge

We concur:

Joan B. Thompson
Administrative Judge

Douglas E. Henriques
Administrative Judge

